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ABSTRACT

An examination of the issues in the debate over federal tuition tax credits for private elementary and secondary education involves the context of the debate, pros and cons, costs, beneficiaries, legal questions, and the public interest. Proponents of tuition tax credits object to paying both school taxes and private tuition; they wish to deduct all or part of private tuition from their federal income tax. Despite the consistent defeats of legislative proposals and state referenda over the past 15 years, proponents claim that tax credits would promote diversity in education, improve quality and efficiency through competition, improve low-income families' access to private schools, and encourage education generally. Opponents dispute all these claims. In either case, the constitutionality of tax credits will depend on the specific plan and the Supreme Court Justices involved. Should a tax credit plan be implemented, probable effects include: a diversion of tax credit dollars to high-income, white Americans and away from the recipients of current federal dollars who tend to be low-income, minority families. On the other hand, private school teachers' salaries and programs might improve, and public schools might be impelled to initiate educational improvements. (PB)

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Tuition Tax Credits: Fact and Fiction

James S. Catterall

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Tuition Tax Credits: Fact and Fiction

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Introduction

This fastback is a primer on federal tuition tax credits for private elementary and secondary education. Legislation offering tax rebates to parents who pay private school tuition has been sponsored in every session of the U.S. Congress for nearly two decades and also in some state legislatures. The latest of these proposals—the 1982 Reagan Administration plan—is the first to be initiated by the executive branch. This high level of sponsorship combined with the near success of past tuition tax credit bills indicates that public debate over aid to private education in the United States will be lively in the coming years. Tuition tax credits are at the center of this controversy. Parents, educators, and public policy makers have a number of questions about tuition tax credits: How do tax credits work? How much would they cost? Who would benefit from them? How would they affect the nation's public and private schools? What are the major arguments for and against tuition tax credits? Which of the touted effects are certain, or likely, or matters for speculation at this time? How have tuition tax credit proposals fared in past sessions of Congress? What issues of educational and social policy are involved? I shall discuss these and other questions to help those participating in the debate but also to inform citizens who have an interest in the issue but have no specialized knowledge about schools, the tax system, or public policy matters.

This fastback is not intended to advance or impede the fortunes of tuition tax credits in the political process, although various elements of the discussion might be enlisted to serve partisan purposes. What the reader is likely to conclude about tuition tax credits is that some of the

bolder claims of proponents and opponents alike may be less than justified. Tuition tax credit legislation, as currently proposed, would not bring about an end to the public schools, as we sometimes hear; nor would its enactment infuse the current school scene with diversity and choice for all, as we are also told. But important consequences are conceivable. Tuition tax credits could command a sizable share of what the federal government spends on elementary and secondary education, thus modifying the existing federal role in financing education. Tax credits could also pay a healthy portion of tuition expenses for students attending private schools, especially for those attending less expensive schools. The broad questions of public support for both public and private schools are critical for the political agenda of the 1980s. The tuition tax credit controversy embraces these questions at a fundamental level.

Considerable data are now available to help us understand the issues in the tuition tax credit debate. First, our descriptive knowledge of families sending their youngsters to public and private schools has increased markedly since the mid-1970s, when the U.S. Census Bureau upgraded the type and amount of data collected annually from parents. The analysis of who would benefit from tuition tax credits presented in this fastback is based on the data that now appear annually in the Bureau's "October Report of School Enrollments." In addition, education researchers and policy analysts are much more involved with issues of public and private schools than they were just a few years ago, so we now have a larger body of analysis and opinion to draw upon. This academic attention to tuition tax credits is due in part to the interest of federal sponsors of education research such as the National Institute of Education, and in part to increasing political activity directed toward public assistance to private education in the form of tax credits or educational vouchers.

The Context of the Tuition Tax Credit Debate

Let us begin our discussion of tuition tax credits with an overview of the institutions that these proposals will likely affect. Private schools in America are a diverse but not overwhelming presence in elementary and secondary education. Current trends suggest that there is considerable stability to the balance between public and private schools in our society. Table 1 indicates that about 10% of the nation's youngsters are in private schools. This percentage has not changed dramatically in the past 20 years, although two trends during this time period are worth a comment.

The largest percentage of children attending private schools in recent times was in the late 1960s when the private school share of enrollments approached 13%. During the next half dozen years, there were precipitous declines in the numbers of Catholic schools in the United States because of severe financial pressures within the church. Because many religious schools are heavily supported by the church's own resources over and above the generally low tuitions paid by parents, when the church experiences financial pressures, the schools generally do also. By 1973 private schools enrolled only about 9% of our children. This share has inched up slowly ever since, not because of increased private enrollments, which have remained stable in absolute numbers, but because of a drop in public school enrollments when the birthrate began to decline after the postwar baby boom.

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Within these overall figures, it is important to consider data on specific types of private schools. Table 1 reveals that church-affiliated institutions account for the vast majority of private schools, about 89%; of these, Catholic schools are by far the most prevalent, about 74%. Not shown in the national data, but of interest to some analysts looking at private schools, is the recent rapid growth of fundamentalist Christian schools, especially in the South and West. Continued growth of these schools, whose total numbers still do not begin to rival those of the Catholic schools, could lead to their becoming a significant presence among private schools. This preponderance of church-affiliated schools among the nation's private schools is important. Plans that offer assistance to these institutions or to the families of their students are subject to legal scrutiny because of constitutional provisions for the separation of church and state. The legal controversy surrounding tuition tax credits is described in more detail in a subsequent section.

Table 1. PERCENTAGE OF ENROLLMENT IN PUBLIC AND PRIVATE SCHOOLS, 1979

	Public Schools	*Private Schools*
All Elementary and Secondary	89.9%	10.1%
Elementary	88.5%	11.5%
High School	92.6%	7.4%
Private Enrollments		
Church-Affiliated Schools	—	89.0%*
Nonaffiliated Schools	—	11.0%

*74% Catholic
Source: Census Bureau, CPR, Series p-20 #360, October 1979.

Additional interpretations of private school enrollment are available from the overall data of Table 1. Private elementary schools are much more popular than private high schools. About 11.5% of elementary children attend private schools whereas only 7.4% of high school children opt for private education. At least two factors probably account for this. Private elementary schools are less expensive to attend than private high schools; average annual tuition in 1982 was $600 for

elementary schools compared to $1,500 for high schools. Also parents may be more willing to commit their limited resources to private schooling during the period when their children are learning basic skills and, in the case of church-affiliated schools, when their children can be indoctrinated in the tenets of their faith.

Private education is more prevalent in some areas than in others. Central city families educate nearly 18% of their children in private schools. Only about 10% of children in suburban areas and 4% in rural areas go to private schools. In San Francisco about four of every 10 children attend private schools. On the other hand, many communities have no private schools at all. Private school enrollment patterns are uneven across the nation. About 16% of the children in Massachusetts are enrolled in private schools; only 5% of the children in Arizona are enrolled in private schools. In general, the percentage of children enrolled in private schools is higher in the Northeast than in the South and West.

Attention to these attendance patterns is important because they determine who will benefit most from tuition tax credits—which families, what types of schools, what grade levels, and what areas of the country. These and other issues are discussed in a later section of this fastback devoted to the benefit patterns of tuition tax credits.

A final comment on the context of the tuition tax credit debate concerns the overall financial climate of schools today—a harsh environment familiar to all who are actively involved in education. Declining enrollments, lack of confidence in all public institutions including the schools, tax revolts by voters, pressures to reduce government spending, and a protracted national economic recession in the early 1980s all permeate both public and private school finance. Congress, the state legislatures, and local officials have been hard pressed to maintain accustomed levels of all public services, let alone provide funds for program improvements or innovations in the schools. School budgets have not kept up with inflation; and no one within the public schools seems optimistic about the prospects for relief. At the same time, families have seen their personal budgets beseiged by inflation. For the average family private school tuition is probably a more painful sacrifice now than it ever has been.

So the conflict over tuition tax credits represents some very basic concerns on both sides. Private school families who support tax credits are objecting increasingly to paying both school taxes and private tuitions and demand relief. Opponents of tuition tax credits look to the already depressing circumstances of public school finance and claim that we cannot begin to afford to divert precious tax dollars to support the nation's private schools.

Of course, the arguments range widely beyond these basic contrasting positions, but before we can attend to these arguments, let us first look at how tuition tax credits work, how recent proposals in Congress have fared, and what implications tuition tax credits hold for public education policy.

How Do Tuition Tax Credits Work?

The idea of a tuition tax credit is simple: parents pay tuition to a private school and then deduct from their federal income tax the amount paid for the tuition (usually a percentage of the full tuition). The result is that the federal government indirectly reimburses parents for some of their private school expenses. The amounts, the limitations, and the eligibility standards for schools are contained in the financial and regulatory provisions of the various tuition tax credit schemes that have been proposed.

The *finance* provisions of tuition tax credit proposals include the percentage of tuition expenses that may be credited against taxes owed, the maximum amount of the allowable credit, and whether or not the credit is refunded to parents who do not owe enough taxes to claim their entire credit. A typical proposal receiving serious debate in Congress provides for tax credits amounting to one-half of tuition up to a maximum credit of $500 per child per year; suggested amendments have altered the maximum credit amount. Some proposals have called for a refundable credit and others have not. The 1982 Reagan Administration proposal specifies a credit for half of tuition with a $500 maximum when fully implemented, but does not provide for refunds if parents do not owe enough taxes from which to take credits.

Proposals that have been suggested or introduced at the federal and state levels vary widely from this typical model. A plan placed before the voters of Washington D.C. in 1981 called for up to $1,200 in District of Columbia income tax rebates on a dollar-for-dollar basis for tuition paid to private schools. (This referendum lost by a 9 to 1 margin in November 1981.) Another proposal in California in 1980 would have allowed $1,200 credits for either individuals or corporations who contributed to tuition expenses. (This plan failed to make the ballot for lack of sufficient signatures.) Recent congressional bills have specified as little as $100 and as much as $1,500 for tuition tax credits. The most common features—a $500 credit or half of tuition—seem to reflect a political balance, to the extent that any has been achieved on tuition tax credits. A $500 credit is significant when compared to tuition costs at many of the nation's private schools, but at the same time is not so large as to raise undue concern over creating strain on the federal treasury. And reimbursing half of tuition rather than the full amount quiets some fears (but not all) about a substantial exodus from public to private schools because of the availability of tax credits.

The *regulation* components of tuition tax credit proposals refer chiefly to specific requirements for the types of schools that would qualify for credit. A major difference among tax credit bills is their applicability to specific levels or types of education. Some plans have provided for tax rebates for colleges and other postsecondary institutions in addition to elementary and secondary schools. Others have excluded elementary and secondary schools. Beyond this, a proposal may specify particular standards for participating schools. Most federal tuition tax credit plans would permit credits for any schools that satisfy the requirements of the state in which they operate. These state regulations vary considerably. Some mandate certification of teachers and/or a specified curriculum; others confine their concerns merely to health and safety matters, if anything. The Reagan Administration plan allows a credit for tuition paid to any school that meets both the requirements of its own state and the requirements of the Internal Revenue Service for nonprofit status. These IRS provisions presently require that the school be organized as a bona fide nonprofit enterprise and employ nondiscriminatory admissions practices.

Recent Legislative Activity For Tuition Tax Credits

Proposals for tuition tax credits are perennially brought before Congress and state legislatures. In recent years such proposals have appeared on the ballot as voter referenda or initiatives in nine states and the District of Columbia but have been rejected by the voters. No measures have passed both houses of Congress, and a number of state-enacted plans have been overturned by the courts.

Tuition tax credit bills have passed in the U.S. Senate in six recent sessions—1969, 1970, 1971, 1976, 1977, and 1978. The 1978 measure, sponsored by Senators Robert Packwood (Ore.) and Daniel Moynihan (N.Y.) also included tax credits for higher education tuition. As originally designed it would have been very much like the Reagan Administration's 1982 proposal in its provisions for elementary and secondary schools. It called for a $500 maximum credit or one-half of tuition expenses when fully implemented. The House of Representatives also approved a version of the 1978 Packwood-Moynihan plan—its only passage of a tuition tax credit bill to date—but not before eliminating its provisions for elementary and secondary schools through amendment. This action forced a joint House-Senate conference on the bill; the committee members failed to reach an agreement on what levels of schools to include. Congress eventually did pass an alternative form of aid for college students—The Middle Income Student Assistance Act—but adjourned without a tuition tax credit bill. President Reagan's 1982 plan was advanced in public statements several times during his first two years in office, but as late as the fall of 1982 it was not yet scheduled for hearings in Congress.

At the state level, various forms of limited assistance to private schools, other than tuition tax credits, have been enacted at one time or another; but most have been declared unconstitutional by the courts. Both Minnesota and Rhode Island were recently embroiled in legal controversies over state income tax *deductions* (as opposed to credits) for private school tuition expenses. The Rhode Island plan was invalidated but the Minnesota plan was upheld in separate 1982 decisions in federal district courts. The U.S. Supreme Court has agreed to hear the Minnesota case in 1983.

In addition to legislative proposals, tuition tax credits or direct state grants to private school pupils have been brought directly before the voters a dozen times in the past 15 years. This history is summarized in Table 2, where it can be seen that in no case were the sponsors of such referenda or initiatives successful.

Table 2. STATE REFERENDA FOR TUITION TAX CREDITS OR PUPIL GRANTS

Year	*State*	*Against*	*For*
1966	Nebraska	57.0%	43.0%
1967	New York	72.5%	27.5%
1970	Nebraska	57.0%	43.0%
1970	Michigan	57.0%	43.0%
1972	Oregon	61.0%	39.0%
1972	Idaho	57.0%	43.0%
1972	Maryland	55.0%	45.0%
1974	Maryland	56.5%	43.5%
1975	Washington	60.5%	39.5%
1976	Alaska	54.0%	46.0%
1976	Missouri	60.0%	40.0%
1981	District of Columbia	89.2%	10.8%

Source: Council for Educational Development and Research.

The Pros and Cons of Tuition Tax Credits

Both sponsors and opponents of tuition tax credit measures offer a variety of arguments in support of their positions. Following is a summary of the principal arguments on both sides along with commentary to assist the reader in appraising the arguments. Evidence bearing on the arguments is not presented here but will be found in later sections of this fastback where the important issues in the debate are analyzed.

Arguments For Tuition Tax Credits

1. *Tuition tax credits would reduce the tax burden for those who pay private school tuitions as well as school taxes.*

All citizens contribute either directly or indirectly to the taxes that support public elementary and secondary schools. Homeowners pay property taxes for schools, and renters indirectly pay property taxes as a part of their rents. In addition to property taxes, most people contribute to the variety of other taxes that help finance the public schools, such as federal and state income taxes, sales taxes, and excise taxes.

This argument suggests that parents who do not send their children to public schools should not have to pay for, or at least should not have to contribute as much to, the operation of public schools. Relief from this "double burden" is a universal argument for tuition tax credits.

2. *Tax credits would promote diversity in education.*

Private schools are looked upon by some as a source of needed diversity in American education. This argument for tuition tax credits holds

that there is a public interest in maintaining a wider range of educational options than may be available within the public schools. American private schools clearly depart from their public cousins in some aspects at least. Many private schools provide their students with the religious training and ceremony that are not permitted in public schools. Other private schools— fine arts academies, military schools, and a variety of special schools for the gifted or handicapped to name but a few—also contribute to the diversity of ways we educate our children. These private alternative educational settings would be preserved or enhanced by tuition tax credits to the extent that the assistance offered by such measures would encourage parents to patronize these schools.

When many Catholic schools were losing enrollments and were closing a decade and more ago, *preserving diversity* was highlighted in the arguments of tuition tax credit sponsors. The trend has abated and private schools are no longer losing their pupils. Now, *promoting innovation* has become the predominant theme of the arguments.

3. *Tax credits would improve the quality of all education through competition.*

The "monopoly" of the public schools is a target of many education reformers and critics. Pupils are customarily assigned to a particular school based on where they live or, in some communities, because of desegregation mandates; and parents generally must go along with these assignments. According to this argument, if parents had the power and resources to withdraw their children from unsatisfactory educational settings and to secure alternatives, public educators would have greater incentive to improve their programs. Competition would thus spur both the public and private schools. Public school teachers and administrators might react to the prospect of pupil flight to private schools with positive changes in their classrooms. The private sector might respond by keeping up with improvements in the public schools so that they could continue to attract paying customers. The strength of this argument depends on whether a specific program of tax credits would result in added demand for private schools. Another factor is how much additional demand the private schools would be able to accommodate. The competition argument also depends on how educators respond with

quality improvements as a result of the various events precipitated by tax credits.

4. *Tax credits would promote efficiency in education.*

This argument has two facets. The first is the suggestion discussed above that tax credits would inspire competition among schools. As a result of such competition, both public and private schools might offer more educational services at the same level of expenditures or might use innovative methods to cut costs. However, the extent of competition is a topic of some controversy because there are several unknown factors to consider.

The second facet of the argument relates to the observation that private school tuitions on average appear to be less than the annual per-pupil expenditure in public schools. By this crude comparison, private schools appear to be cheaper; thus encouraging parents to transfer their children to private schools through tax credits might reduce the community's financial obligations to public schools. In the extreme, this argument holds that if a pupil can be lured into the private sector by an annual $500 tax credit, the public might save the $2,000 or more that it costs for that pupil's attendance in a public school. The apparent new "saving" would be substantial. This argument depends on a careful accounting of the resources that go into both public and private schools; the latter are typically supported by a variety of contributions beyond tuition such as church resources and personnel, donated services, and gifts. This argument also depends on an assessment of the equivalence of the two types of education. Do private schools provide the same quality and range of services as their public school counterparts? Private schools may spend less because they do not offer some of the programs and services provided by public schools.

5. *Tax credits would improve access to private schools for low-income families.*

According to this argument, the rich have choices in education and the poor have none. Low-income families must accept whatever the public schools offer, while families with resources can choose private alternatives if they are dissatisfied with the local public schools. The

educational fortunes of low-income populations have been a perennial concern in our society. In many instances, the public schools they attend receive much less financial support than schools in wealthy districts. Tax credits are offered as a way to help rectify this imbalance—by giving low-income children a chance for an alternative and perhaps better education in a private school chosen by their parents, or by pressuring their public schools to improve because of the threat of pupil transfers to private schools.

The validity of this argument also is tied to a variety of future behaviors that must be examined carefully. Increased access to private schools for low-income families through tax credits would depend on the magnitude of the inducement provided by the credits and the availability of private options for these families. In a subsequent section on who would benefit from tuition tax credits, I shall discuss a number of considerations that bear on these questions.

6. *Tax credits would promote choice in education as an end in itself.*

Sponsors of tuition tax credits sometimes stress the value of "choice" in educational policy as something worth pursuing for its own sake. Individual freedom and liberty are espoused by such thinkers as economist Milton Friedman, author of *Free to Choose* and of other works advocating minimal government interference in the lives of citizens, and by well-known school finance reformer John E. Coons, author of *Education by Choice*. While these two scholars seem to prefer the education voucher scheme to tax credit proposals, a part of their argument is reflected in the statements of tuition tax credit advocates. For financial reasons suggested above, many families are not in a position to have any choice in the schooling of their youngsters; tax credits are advanced as a way of facilitating private school options for those who cannot afford them, and hence as a boon to educational choice more generally.

Arguments Against Tuition Tax Credits

1. *The public schools are a social obligation of all citizens; those who choose private options should do so at their own expense.*

While tax credit supporters demand relief from the payment of both private school tuition and public school taxes, opponents argue that all citizens, with or without children in schools, should pay for public education because of its contributions to the public interest. Opponents argue by analogy to refute the "double burden" claim of tuition tax credit supporters. Should users of private automobiles be relieved of taxes devoted to public transportation? Should users of private swim or tennis clubs be absolved from paying taxes for public recreational facilities? Using such comparisons, opponents argue that the benefits of public services are shared to some degree and therefore should be funded by all, not just by their users.

2. *Aid in the form of tuition tax credits will result in a windfall to private school parents and little else. Specifically, a small tax credit will neither promote competition nor diversity.*

If a tax credit is insufficient to encourage parents to enroll their children in private school, its principal result would simply be tax relief for current private school parents, according to this argument. The costs of private school attendance beyond the tax rebate, such as the balance of tuition and other required expenses, would still be prohibitive for most families. So, while a tuition tax credit may yield tax relief for current private school parents, it would not achieve any of its supposed benefits for education and children more generally.

3. *Existing private school parents do not deserve public subsidies because they have higher average incomes than public school parents, more of whom are poor or belong to minority groups.*

This argument holds that tuition tax credits would benefit the nation's economic elite, since they more often opt for private schools. Tax credits would not benefit poor or minority families, who send fewer of their children to private school than do white, upper-class families. This argument suggests that since public resources for education are scarce, any additional funding should be provided for children who are most in need, especially the poor and minorities. (Actual income and ethnic characteristics of public and private school families are presented in a following section.)

4. *Allocations for tuition tax credits are likely to reduce funding for other federal education programs. The effect would be to transfer funds from the disadvantaged and needy in the public schools to the privileged children in private schools.*

Whether or not the funds necessary for a tuition tax credit program would be taken from existing federal education programs would be up to the Congress. Existing federal programs were designed for the most part for special-need populations, such as poor children and those with exceptional needs. Recent (1981) changes in federal laws have decreased the specific targeting of federal education programs through consolidation of special programs into block grants. At the same time, the budgets for these programs were cut along with those of other federal social programs. Since the 1960s the federal role in elementary and secondary education has been primarily one of meeting certain pupil needs that the states were unwilling or unable to fund. According to this argument, tuition tax credits would reverse this role, because likely beneficiaries of tax credits typically do not come from poor families and, as a group, require fewer special education services.

5. *If the public has an interest in promoting diversity and choice in education, it should achieve these ends through improvements in the public schools.*

Public educators, along with other public servants, perceive that their institutions are facing a crisis in public support and confidence. Some people view tax credits or other forms of assistance for private schools as the federal government's abandonment of efforts to improve public schools from within. The symbolism of such an action is anathema to public school educators, who would view the passage of tax credit legislation as a major no-confidence vote in the public schools. Public school educators are asking for stepped-up efforts to improve their existing schools.

Weighing the Arguments

Many of the arguments for and against tuition tax credits are problematic. The promotion of competition and choice in the schools, or the

diversion of funds from existing federal education programs is what people *think* would take place if tax credit legislation was passed. Just what would occur depends directly on how school parents or their schools would react to tax credits, and at present we have no good evidence to indicate what that reaction would be. Critical questions for assessing the potential effects of tuition tax credits include the amount of credit allowed as an inducement to parents to enroll their children in private schools, the cost of a tax credit scheme to the federal budget, which families would generally benefit from tax credits, the reactions of private and public schools to tax credits, future decisions by Congress that might alter the size of, or eligibility for, tuition tax credits, and the constitutionality of proposed legislation. The following sections discuss these questions using existing demographic data and legal decisions that bear on the issues.

Costs of Tuition Tax Credits

Various estimates for the costs of federal tuition tax credit plans are shown in Table 3. The critical features of such plans are the percentage of tuition that is covered and the maximum allowable credit. In addition, the refund of credit to families who have insufficient tax liability is an important factor since proposals with such a feature are more expensive than those without it. For example, the estimate for the Reagan Administration type of proposal—a nonrefundable credit for 50% of tuition with a $500 maximum—would cost up to $1.1 billion per year when fully implemented if the private school population remains at its current level. Costs of other plans range from about $5 billion for a fully refundable $1,000 tax credit for all tuition down to just over a half billion dollars for a nonrefundable tax credit of $250 for 50% of tuition.

Table 3: ESTIMATED COSTS OF VARIOUS FEDERAL TAX CREDIT PLANS

Maximum Size of Credit	*$250*	*$500*
Credit for 50% of Tuition		
Refundable	$0.63 billion	$1.25 billion
Nonrefundable	$0.56 billion	$1.11 billion
Credit for 100% of Tuition		
Refundable	$1.26 billion	$2.50 billion
Nonrefundable	$1.12 billion	$2.22 billion

These cost estimates assume that the population of private schools remains stable after tax credits are passed. If enrollments in private schools increase in response to tax credits, the costs would go up since more families would apply. Also, estimates would have to be adjusted if future actions by Congress should change the features of the tuition tax credit plan. Some tax credit opponents fear that once tax credits are enacted there will be pressure to increase the amount of the credit, because once the tuition tax credit idea is established in principle through legislation, the new constituency of tax credit beneficiaries might mobilize political pressure to increase the amount.

Effects of Tuition Tax Credits on Public School Finance

Public school authorities fear that many parents will withdraw their children from public school if Congress passes tuition tax credit legislation. Proponents of tax credits counter, If the public schools are doing a good job, why should children depart? The effects of tuition tax credits on public school finance will depend on two factors: 1) the movement of pupils from public to private schools and 2) the precise way that the federal government funds the tax credits. Enrollment decline would affect public school funding wherever it occurs, and reduction of other federal education programs in order to finance tuition tax credits would hurt the public schools more generally.

Proponents of tax credits point to the fact that parochial schools charge an average of $400 to $500 in tuition and fees, while the neighboring public school typically spends at least $2,000 per pupil. Thus a shift of pupils from the public to nonpublic schools might result in a sizable saving to the community. While there is evidence that nonpublic schools, especially parochial schools, generally operate at lower costs than public schools, direct comparisons do not reflect the real financial situation. True costs for parochial schools substantially exceed tuition fees. Parish contributions and regular fund-raising events supplement tuition. Many employees, including teachers, work for much lower salaries than their public school counterparts; and those teachers and administrators who are members of religious orders receive only small stipends, which are supplemented by in-kind services such as

meals and housing. Comparisons of recent estimates of public and private school resources devoted to regular pupil instruction show a very narrow gap and suggest that public school costs are higher due to a variety of special programs and services provided.

Just how much a public school would save if a pupil transfers to a private school depends on how many pupils leave and on the types of pupils who leave. Public school costs are usually expressed as average expenditures per pupil in a district. This average includes pupils at both elementary and secondary levels and special-need pupils, such as the handicapped, who are expensive to instruct. The amount spent to educate individual pupils in a public system differs considerably. In general, private schools do not provide the high cost programs for special-need pupils. Only about 2.7% of church-affiliated schools provide programs for the handicapped; only 3% of all nonpublic schools provide vocational education; and about 4.4% provide compensatory education. If such programs are not generally offered by private schools, parents of pupils requiring these services will not be induced to change schools because of tax credit. Enrollment shifts are more likely for regular pupils who do not require special programs. For this reason alone, a comparison of average costs of public and private schools is probably not a justifiable basis for analyzing the financial implications of enrollment shifts.

Furthermore, just how much of a school's costs can actually be reclaimed when a pupil leaves depends on whether the exodus is small or large. If a few pupils leave a public school, teachers have fewer papers to grade, the bus has a few extra empty seats, wear and tear on the playground swings is reduced. But in none of these areas are costs directly recovered. If enough pupils leave to warrant laying off a teacher, or selling a school building, or terminating a bus route, substantial savings could be realized because the district could make reductions in its fixed costs of operation. So, a massive pupil shift would ease public school budgets substantially; marginal shifts would leave the budgets about where they are.

Another way that tuition tax credits might affect public school finance is through the curtailment or abolition of federal education programs in order to finance tax credits. If a tuition tax credit program

resulted in a reduction in the federal education budget, it would, in effect, amount to a tranfer of funds from the public school system to private school parents. The federal government now funds roughly 7% to 8% of the costs of public schools through its various programs. A $1 billion reduction in this budget would reduce public school budgets nationwide by about 1% on average. These effects would be felt most by schools that have high levels of federal funding: those with high percentages of poor pupils who receive funds under Chapter 1 of ECIA (formerly Title I of ESEA), those benefiting from Impact Aid in areas where there are extensive federal installations, and those serving handicapped children under P.L. 94-142. There is no mandate that Congress will fund tuition tax credits by reallocating funds from other federal education programs, but such action is conceivable in an era of huge public budget deficits and budget reductions in social programs.

Effects of Tuition Tax Credits on Private School Finance

Tuition tax credits may or may not affect the financing of private schools. The critical variables are how families will react to tax credits and how private schools will respond with their own policies.

If students remain in the schools they attended prior to the enactment of tuition tax credits, very little may change. Enrollments would remain constant and parents would continue to pay the same tuition to private schools, but their tax bills would be reduced because of the credit. In this scenario the effect of tuition tax credits simply would be a tax break for private school parents.

A second scenario is that parents, enticed by the availability of tax credits, will withdraw their children from public schools and enroll them in private schools or will enroll them in private schools when they start school. This would enhance the financial health of private schools by providing added tuition. And because new enrollments are not likely to add appreciably to the actual costs of operating the schools, their overall programs may be enriched because of the added students. These positive effects would vary from school to school, depending on how many children transfer into the school, the tuition level of that school, and the ability of the school to serve additional children with its current teaching

staff and facilities. Private schools that were full would have no incentive to add to their enrollments because of tax credits, but those that had excess capacity would be eager to accommodate any increased demand.

A third scenario is that tax credits might induce private schools to raise tuitions and to reduce scholarships, since the added costs to parents could be "passed on" to the government; that is, private schools could raise tuitions but the net cost to parents would be unchanged. If there were an increased demand for private schools, families would likely bid up the prices of the schools. Also, comparatively underpaid private school teachers would probably advocate raising tuitions in order to improve their salaries. And finally, since private schools traditionally seek funds from a variety of sources and operate on austere budgets, a shrewd private school administrator would justify a tuition increase that is aligned with a tax credit in a way that would be readily acceptable to parents.

Scholarship policies of private schools may also adjust to tuition tax credits. Scholarships may be reduced dollar-for-dollar since a tax credit would compensate the recipient for the loss. This would leave the net costs of attendance the same for those scholarship recipients with eligibility for a tax credit, but it would squeeze those families needing scholarship aid but with limited or no eligibility for tax credits.

Who Would Benefit from Tuition Tax Credits?

We may not know all there is to know about who would benefit from tuition tax credits, but we do know a number of things about the families who attend private and public schools in the United States. And since a tuition tax credit scheme would directly benefit those families in the private schools who are eligible for a credit, we can compare this recipient population with all families having school children in the United States. The dimensions of the comparisons are the type and level of schools they attend, the regions of the United States and types of communities in which they live, their income, their race, and whether they have special education needs.

Benefits by Type of School and Level

To respond to the basic question of who will benefit from tuition tax credits requires some analysis of data on children in public and private schools. Assuming no net enrollment shifts between these sectors, the tax credit will be available only to the slightly more than 10% of the nation's school children who attend private schools. In addition, tuition tax credits would have a greater impact at the elementary level than at the secondary level. In grades one through six, 11.5% of total enrollments nationally are in private schools. Only 7.4% of high school students are in private schools. So, a tuition tax credit plan that does not distinguish among grade levels generally favors the parents of elementary school children as a matter of policy. However, enrollment statis-

tics alone mask the fact that parents of high school children qualify for larger credits since they pay more tuition. As Table 4 below shows, 1978 estimates of median tuition payments were $901 for high school and $356 for elementary school. (The Congressional Budget Office uses figures of $1,500 and $600 for 1982.) This means that high school parents would qualify for credits averaging as much as $451, whereas elementary school parents would typically receive only $178. These estimates overstate expected average credits, since some parents will not receive a full credit because they have insufficient tax liability. It is also likely that the parents of elementary pupils in private school will have lower average tax liabilities, since they generally have lower incomes than the parents of high school children in private school. The net result is that, of the total credits granted under a typical plan, nearly equal total dollar amounts ($533 million vs. $506 million) will go both to the relatively small group of parents whose children are in private high schools and to the relatively large group of parents whose children are in private elementary schools.

Table 4. TAX CREDIT BENEFITS: ELEMENTARY VS. HIGH SCHOOL

	Private Enrollment	*Share*	*Median Tuition*	*Credit*	*Total Credit*	*Share*
K-8	3,109 mil.	73%	$356	$178	$533 mil.	52%
9-12	1,122 mil.	27%	$901	$451	$506 mil.	48%

Source: CPR, op. cit., tuitions from unpublished Census Bureau tapes October, 1978 survey of school enrollments cited in Jacobs, M.J. "Tuition Tax Credits for Elementary and Secondary Education: Some New Evidence on Who Would Benefit," *Journal of Educational Finance* 5 (Winter 1980): 233-245.

Within the private school sector, enrollments are distributed among various school types as shown in Table 5 on page 31. Nearly 90% of private school enrollments are in schools affiliated with religious institutions or orders. Enrollments in Roman Catholic schools is the largest single category and accounts for nearly three of every four children in private schools. The National Association of Independent Schools

Table 5. PRIVATE ENROLLMENTS AND SCHOOLS BY SCHOOL TYPE

School Type	*No. of Schools*	*Share*	*No. of Pupils*	*Share*
Total	14,757	100.0%	4,234,000	100.0%
Nonaffiliated	2,210	15.0%	475,901	11.2%
NAIS	(750)	(5.1%)	(300,000)	(7.1%)
Other	(1,460)	(9.9%)	(176,000)	(4.1%)
Church-affiliated	12,547	85.0%	3,578,099	88.8%
Roman Catholic	(8,986)	(60.9%)	(3,110,972)	(73.5%)
Lutheran	(1,366)	(9.3%)	(201,257)	(4.8%)
Other	(2,195)	(14.9%)	(266,000)	(10.5%)

Source: NCES: 78-107a, Nonpublic School Statistics, 1976-77, Advance Report.

(NAIS) is the second largest classification, accounting for about 7% of all private enrollments and for nearly two thirds of enrollments in nonaffiliated schools.

The distribution of tax credits among families enrolling children in the various types of private schools would generally reflect their enrollment distributions. An exception is the nonaffiliated schools. These schools charge much higher tuitions on average, and the families sending children to these schools tend to have higher incomes and therefore incur higher tax liabilities. Because of these factors, families sending their children to nonaffiliated schools could make fuller use of tuition tax credits.

Benefit Patterns by Region and Location

Private school youngsters are not distributed evenly across the United States. For example, while the northeast region of the nation accounts for less than a fourth of total elementary and high school enrollments, it enrolls 31% of private elementary school children and just over a third of private high school students. These pupil distributions suggest that a tax credit plan would favor the northeast and north central regions of the country.

Not surprisingly, enrollment in private schools are concentrated in urban areas of the United States and are less common in rural regions. Central cities account for 26% of the nation's total children in grades 1-12 but enroll 42% of all private school children. Metropolitan areas outside of central cities, i.e., the more suburban areas, account for about 40% of both public and private school enrollment. Rural areas account for only 17% of private school enrollments, but serve 34% of all of the nation's youngsters.

These data indicate that a tuition tax credit would generally benefit parents of children in central cities far in excess of their proportion in the overall pupil population. At the opposite extreme, the tax rebate would benefit parents of children in rural areas at a level approximating one-half of their total presence in the population.

Benefit Patterns by Family Income Level

Personal income is an important consideration in discussions of equity and public policy. People of different income levels are frequently treated differently in the provision of public services in the interests of equity.

The rich and the poor participate very differently in American private schools. Our public school system provides education at no direct cost, but the decision to enroll a child in a private school is voluntary and requires money. Families that opt for private schools tend to have higher personal income, as shown in Table 6.

Table 6. PRIVATE SCHOOL ATTENDANCE RATES BY PERSONAL INCOME

	Percentage Attendance by Income (in $1000s)						
	Total	*$0-5*	*$5-10*	*$10-15*	*$15-20*	*$20-25*	*$25+*
Elem.	11.0	3.5	4.8	8.4	11.8	13.4	19.1
HS	7.7	2.2	2.9	4.8	6.9	7.3	12.6
Both	9.9	3.2	4.3	7.4	10.2	11.4	16.5

Source: CPR, op. cit. Figures are for October 1979. Median family income, all families: $17,000.

About 10% of all children attend private elementary and secondary schools. However, the percentage of children who attend private schools ranges from 3.2% at the lowest income level to 16.5% at the highest level. Note that the attendance rates are higher for elementary schools at all income levels. Thus, more of the benefits of tuition tax credits would go to high-income parents because of their greater use of private schools to educate their children. This benefit is even more pronounced if high-income parents select more expensive schools and can take advantage of the maximum tax credits allowed.

Overall, a greater proportion of private school families occupy higher income classes than do the families of public school children. For instance, in 1979 about 54% of private school families reported incomes in excess of $20,000 per year. About 36% of public school families reported such income levels. At the lower end of the income distribution, about 8% of private school families had incomes under $10,000 while about 22% of public school families reported this level. These patterns are generally duplicated at both the elementary and secondary levels. Private high school attendance correlates strongly with high levels of family income. Nearly 60% of all families sending children to private secondary schools (grades 9-12) reported incomes in excess of $20,000, compared to 40% of public school families. Only about 6% of private high school families had incomes under $10,000 compared to about 19% of public school families.

Benefit Patterns by Race

The issue of race in a program of tuition tax credits has been a continuing controversy. On the one hand, opponents of tax credits offer statistics showing small enrollments of black and other minority families in private schools as evidence that these families will not get their fair share of benefits. This argument has been countered by the observation that private schools, particularly central-city Catholic schools, have traditionally served minority populations and in recent years have had increases in enrollments of blacks and Hispanics. The 1978 hearings in the U.S. Senate surrounding the Packwood-Moynihan tax credit pro-

posal are laced with conflicting testimony on the subject of minority involvement in private schools.

Table 7 below shows the distribution of public and private school enrollments by level, race, and origin. The total enrollments for each level shown in the table actually overstate the estimates of school attendance since persons of Spanish origin are sometimes included in one of the other two race classifications. Minority attendance patterns for the nation as a whole reveal underrepresentation of both black children and children of Spanish origin in private schools. Blacks account for about 15% of all elementary school enrollments and for only about 8% of private elementary school enrollments. Blacks in high schools account for 13.5% of total enrollments and 6% of private enrollments. The percentage of families of Spanish origin in private schools more closely approximates their percentage in the total population. Hispanics account for 7% of total and 6% of private elementary enrollments. At the

Table 7. SCHOOL ENROLLMENTS BY LEVEL, RACE, AND ORIGIN (in 1000s)

Total	*White*	*Black*	*Spanish/Origin*
Total HS (9-12) Distribution			
14,364	11614 (81%)	1946 (13.3%)	804 (6%)
Private HS Distribution			
1,085	983 (91%)	63 (6%)	39 (4%)
Total Elem (1-8) Distribution			
29,225	23003 (79%)	4294 (15%)	1928 (7%)
Private Elem Distribution			
3,214	2782 (87%)	243 (8%)	189 (6%)

Source: CPR, op. cit.

high school level, they account for 6% of all enrollments and 4% of private enrollments.

On the basis of these racial enrollment data, one could conclude that white families would benefit in excess of their representation in children in school, blacks would benefit at about one-half the level of their representation in total enrollments, and persons of Spanish origin would receive about a fair share on the basis of their representation.

Tax credit benefits to families would be affected by their income levels and their tax liabilities in the case of a nonrefundable credit. As Table 8 below indicates, white families earn more income and pay more taxes than either of the other groups. The tax credit would be of little use for families with insufficient tax liability. While only 22.4% of white families with elementary and secondary school children had earnings below $10,000 in 1980, 37% of Spanish origin families and 46.2% of black families reported these low income levels. These families pay average taxes of $313 per year or less. In many cases they pay no taxes at all. These families will be limited or nonparticipants in a tuition tax credit plan.

Table 8. INCOME AND TAXES PAID BY FAMILIES, BY ORIGIN, SHARES BY LEVEL OF INCOME

Total Money Income	*White %*	*Black %*	*Spanish Origin %*	*Average Tax Paid*
under $3000	2.6	9.0	5.2	$ 0
3000-5000	3.9	13.4	9.4	0
5000-7000	5.6	9.8	9.2	
7000-10,000	9.3	14.0	14.0	313
10-12,000	6.6	7.7	9.6	
12-15,000	10.0	10.0	11.6	895
15-25,000	32.5	22.7	27.5	2000+
25,000+	29.5	13.4	13.5	7000
Total	100.0%	100.0%	100.0%	

Sources: Income figures from CPR, Population Profile of the United States, 1979 Series P-20 #350, May 1980. Taxes-paid figures from extract of FY 1980 March CPS for families with elementary and secondary school children, courtesy to author from U.S. Congres ional Budget Office.

Benefit Patterns by Educational Need

Another important equity issue is providing education to children with special needs. Table 9 below presents data that show the percentage of private schools offering both special education and compensatory education services. The data must be qualified at the outset: The number of children in the U.S. requiring special education is an elusive figure because of inconsistent reporting and lack of common definitions across the 50 states. The percentage of all children with special needs shown here (12.7%) is a median figure developed by William Hartman in his recent research into the costs of special education in the United States (see note [a] in Table 9 sources).

The data reveal that 5.8% of all private schools offer special education services and 4.4% offer compensatory education services. Special education is offered in a higher percentage of nonaffiliated schools than in church-affiliated schools. This undoubtedly reflects the fact that

Table 9. PRIVATE SCHOOLS AND SPECIAL SERVICES

Affiliation	*# Schools*	*Special Education*		*Compensatory Education*	
		#	%	#	%
All Schools	14,757	849	5.8	644	4.0
Nonaffiliated	2,210	512	23.2	145	6.6
Affiliated	12,547	337	2.7	499	4.0
Est. Share of All Pupils Requiring Services:		12.7%[a]		18.8%[b]	
Est. Share of Total Private School Pupils Receiving Service:		0-1%		0-1%	

Sources: Nonpublic School Statistics, 1976-77, NCES op. cit.

[a] IFG Policy Notes, V 2, No. 1, page 6. Imputed estimate.

[b] Kirst, M., & Jung, R. "The Utility of a Longitudinal Approach in Assessing Implementation: A Thirteen Year View of Title I, ESEA," IFG Stanford University, p. 16.

some private schools, mostly nonaffiliated, are established for the sole purpose of providing a particular type of special education service.

We know little about the extent of special education services offered by these private schools, so it is difficult to estimate the overall numbers of families of special-needs children who might benefit from tax credits. The figures do suggest that a much smaller percentage of these families will benefit from tax credits than are represented in the total school population. Since only about 5% of private schools even offer these services, we might guess that 5% of tax credits is the share going to families of special-needs children. However, since these students, by various estimates, constitute between about 13% and 19% of the population, their families are relative losers in a tuition tax credit program.

Are Tuition Tax Credits Legal?

Tuition tax credit plans involve the government with religious schools and institutions. This involvement may or may not be in violation of the establishment clause of the First Amendment to the U.S. Constitution. Proponents of tax credits argue that the principal beneficiaries are child and family and use the so-called "child benefit" theory to justify that people rather than institutions or religious orders benefit from this form of government assistance. They further argue that a federal program of tax credits for private schools would have general positive effects and would not lead to the establishment of one religion, which was the principal fear of the framers of the Constitution. Opponents of the tax credit argue that religious schools or parishes are the beneficiaries, that the institutions do advance a particular religion at public expense, and that administering the credits does involve excessive government entanglement in church affairs.

The U.S. Supreme Court has acted only once on tuition tax credits. In *Committee for Public Education and Religious Liberty* v. *Nyquist*, 413 U.S. 756 (1973), the court struck down a New York program that provided tax credits for elementary and secondary school tuition. The court applied the newly established "Lemon Test," following the precedent set by *Lemon* v. *Kurtzman*, *Earley* v. *Dicenso*, 403 U.S. 602 (1971), for cases involving church-state relations under the First Amendment. Under this test, which would be applied to a Reagan Administration type plan, the law must be secular in purpose, must neither enhance nor inhibit religion, and must not foster excessive government entanglement with religion.

Several other forms of aid to private schools in a number of states have been overruled by this test. The constitutional journey for a tax credit proposal is best described as a passage between Scylla and Charybdis — the government must have some certainty that its funds are devoted to secular and legitimate purposes, but in designing controls to assure these ends it must avoid regulatory entanglement with the church.

Substantial legal scholarship has been advanced on both sides of this issue. It seems certain that the constitutionality of tuition tax credits will depend on the specific plan involved, and on the composition of the Supreme Court when it is time to vote.

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Conclusions—Tax Credit and the Public Interest

To what degree are the public and social purposes of education achieved in the nation's private schools? Nonpublic school supporters hold that their schools represent a vital stronghold for diversity in American education and for pluralism in the values transmitted to children. But if the government is going to help pay the tuition bill, what controls over the quality or character of schooling must follow? Must the schools be monitored, regulated, and controlled to the point of guaranteeing a set of standards? Would this stifle the institutions beyond recognition? Would it entangle state and church beyond constitutional limits? Whether the public has considered these questions or not, many persons have probably already decided for themselves how they feel about tuition tax credits.

Proponents of tuition tax credits believe that the country is well served by the nonpublic sector and that these schools have succeeded where the public schools have failed. But opponents believe that tuition tax credits advance religious beliefs and are therefore unconstitutional and counter to the public mission; they further believe that pupils who attend private schools that have only minimal resources for teaching basic education might be shortchanging themselves by not taking advantage of the comprehensive curricula of many public schools.

Although there can be no simple prognosis, the following statements summarize the probable effects that would result from implementation of a tuition tax credit program.

• If all pupils remain in their current schools, dollars will flow from the U.S. Treasury to private school parents; little else will change.

• If these dollars are taken from existing federal education programs (a reasonable supposition based on the fiscal plans of the Reagan administration), some effects will filter back to the public schools, which depend on the federal government for about 8% of their funds.

• The recipients of tuition tax credit dollars will tend to be high-income, white Americans; the recipients of current federal dollars for schools tend to be low-income and minority children.

• If nonpublic schools raise tuition in response to the plan, they might improve offerings to their pupils or teacher salaries, which are currently far below the salaries of public school teachers.

• If public school pupils switch to private schools, the latter might capitalize on this increase in scale and offer a more diverse set of services.

• Such pupil shifts would exacerbate declining enrollments in public schools and probably would initiate the flight of regular pupils without special needs.

• Finally, if public school professionals recognize tuition tax credits as a threat to their welfare because of the potential loss of pupils to nonpublic schools, they might be impelled to conceive actions that would attract more pupils; this could lead to educational improvements within the public schools.

In this fastback I have offered information about tuition tax credit proposals that encompasses much more than the broad generalizations usually offered by persons on both sides of the issue. When debaters maintain that tuition tax credits will signal the ruin of public education or that promised choice and diversity will bring salvation to our educa-

tional system, both sides are avoiding the many sources of data that ought to occupy a central place in the debate. The implications of tuition tax credits for both public and private school finance, informed notions of just who would benefit from suggested plans, and what changes in enrollment patterns could be expected under such schemes are the grist for good policy making.

This analysis challenges educational leaders and all interested citizens to enter into the tuition tax credit debate with a grasp of the key dimensions of the controversy and a realistic view of how their interests, and those of all school children, may be served or hindered by such proposals.

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